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ARBITRATION,

AS A SUBSTITUTE FOR WAR.

ADDRESSED ESPECIALLY TO RULERS.

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THE evils of war are coming to be more generally known, and more deeply felt than in ages past. Its suspension or derangement of business; its havoc of life and property; its crippling of agriculture, manufactures, and all the arts that minister to individual and national prosperity; the obstructions it opposes to commerce, to travel, and every kind of useful intercourse between nations; its baleful influence on morality and religion, on the cause of liberty and popular improvement, on the various enterprises now in progress for the welfare and redemption of our whole race, on the dearest interests of mankind for time and eternity; all are rapidly conspiring more and more to make every good man deplore the custom as a terrible scourge, and earnestly desire its speedy, universal abolition.

These views are no longer confined to the associated friends of peace; but the people themselves, wherever enlightened on the subject, and free to utter their sentiments, are calling for peace. It is fast becoming the popular demand of the age, the cry of millions sighing for relief. They begin to discover in war the source of their worst evils. It is the origin and support of the tyranny that rules them with a rod of iron; its enormous burdens are grinding them into the dust all over the old world; the war-debts of Europe alone, secured by mortgage upon their bones and sinews, exceed by far the entire amount of specie now on the globe; more than four-fifths of all their taxes go to pay the interest on these debts, and to maintain even in peace some three millions of standing warriors as moths on the community; and, when they remember how many centuries this monster has revelled in their blood, and how often it has plundered and burnt their cities, and laid waste their villages, and trampled down their harvests, and desolated their peaceful homes, and butchered their sons upon the battle-field, and subjected their wives and daughters to a fate still more deplorable, can we wonder, that the people, always the chief sufferers from war, are at length demanding of their rulers to obviate its alleged necessity by the adoption of other means than the sword for the settlement of national disputes?

Nor is the demand unreasonable. Rulers could, if they would, adjust their own difficulties, and regulate the entire intercourse of nations, without war. There is no real need of this custom; and, were they so disposed,

they could supersede it at once and for ever by substitutes far better than lead and steel. They compel the people to settle *their* quarrels without bloodshed; and we see not with what sort of consistency they can require or permit the wholesale butchery of their subjects in war for the adjustment of differences in which the combatants themselves have no personal concern. It is a cruel outrage upon the people, as well as a bitter mockery of common sense; and we deem it quite time that this foul stain were wiped from the escutcheon of Christendom for ever.

And it can be done with ease and safety. We propose for the purpose a measure which relinquishes no right, and sacrifices no interest, contravenes no important principle, and startles few, if any prejudices; a measure adapted to the present state of the world, and consistent alike with the precepts of Christianity, and the dictates of sound policy; a measure level to the comprehension of all, and commending itself to their common sense; simple, feasible, and likely to prove successful. It is ARBITRATION *as a recognized substitute for war.* Better to agree among themselves, if they can, without the intervention of a third party; but, if they cannot, we wish nations in every case to settle their difficulties, as individuals in society do theirs, by some form of reference. This method has been occasionally employed; but we urge its adoption as an established, permanent principle. We would have nations incorporate in every treaty a clause binding the parties, as their last resort, to adjust whatever differences might arise between them, not by an appeal to arms, but by reference to umpires mutually chosen. The arrangements for this purpose might safely be left in every case to the contracting parties; but they should invariably bind themselves in good faith to abide by the decision of their referees, and claim, if dissatisfied, only the privilege of renewing or changing the reference.

Here is the outline of our plan. It speaks for itself, and may seem too clear to require either argument or illustration. Common sense decides, that no man should be allowed to judge in his own case; and this principle is quite as applicable to communities as to individuals. The former, equally liable to all the influences that bias the judgment, and lead to wrong conclusions, should never be permitted, any more than individuals, to act as witness, jury or judge in their own case. The voice of common sense, in every age and clime, cries out against it as manifestly wrong, and demands, that parties in dispute, whether individuals or communities, should in the last resort leave their differences to impartial judges. This is all we ask. Nations are only large communities; and we insist merely on their adopting this simple, equitable principle for the settlement of their difficulties.

Nor is the principle new or untried. It is as old as human society; it has been acted upon from the earliest dawn of civilization; we often find the wisest and best men preferring it even to a regular course of law for the amicable adjustment of their own differences; and we simply ask, that nations should exercise an equal degree of sense, candor and justice, by referring their disputes in like manner to competent and impartial arbiters.

The same principle lies at the bottom of all our courts. Every trial there is a reference. No litigant is allowed to decide, or even to testify in his own case; but he must, whether willing or unwilling, submit to the judgment of his peers on the testimony of credible witnesses. Nor has he any direct voice in the selection of his arbiters; society chooses them for him; and before a judge and jury thus appointed, he is compelled to go, and abide their decision. Such is the ordinary course of justice, the

common, legal mode of reference; and are we unreasonable in wishing governments, in the settlement of their difficulties, to act on principles as equitable and elevated as those which they prescribe to their own subjects? Shall common sense, common honesty, the established rules of right and wrong, never be extended to the intercourse of nations?

We appeal to acknowledged authorities in the case. All writers on international law represent nations as subject to the same general rules of right as individuals; Chancellor Kent says "they are properly regarded as moral persons;" and Vattel considers them as under the same obligations that are binding upon men in their intercourse one with another, and "the law of nations as no more than the law of nature applied to nations." No respectable writer since the time of Grotius has ventured to call this principle in question; but does it not obviously require governments to settle their disputes in essentially the same way that individuals do theirs? If the latter may not decide their own case, and wreak vengeance at will on the objects of their displeasure, why should the former be allowed to do so? Why should nations be indulged in principles of action that would in individuals outrage common sense, trample on all law, and subvert the very foundations of society?

Let us quote from the great masters of international law. Grotius says, "war should never be declared until all other means of redress have been faithfully tried;" and Vattel asserts, that "the law of nature, which recommends peace, concord and charity, obliges nations to attempt the mildest methods of terminating their differences.—Nature gives us no right to have recourse to force, but where mild and pacific methods are ineffectual.—When sovereigns cannot agree about their pretensions, they sometimes trust the decision of their disputes to arbitrators. This method is very reasonable, and very conformable to the law of nature. Though the strict right may be mistaken by the arbitrator, it is still more to be feared, that it will be overwhelmed by the fate of arms."

On this point, Vattel adduces a series of striking examples. "The kings of Denmark formerly condescended by solemn treaty to refer to those of Sweden the differences that might arise between them and their Senate; and the kings of Sweden did the same with regard to those of Denmark. The princes and states of West Friesland, and the burgesses of Embden, in the same manner constituted the republic of the United Provinces the judge of their differences. The princes of Neufchatel established in 1406 the canton of Berne the judge and perpetual arbitrator of their disputes. The Swiss have had the precaution, in all their alliances among themselves, and even in those they have contracted with the neighboring powers, to agree beforehand on the manner in which their disputes were to be submitted to arbitrators, in case they could not themselves adjust them in an amicable manner. This wise precaution has not a little contributed to maintain the Helvetic Republic in that flourishing state which secures its liberty, and renders it respectable throughout Europe."*

Such was the law of nations on this point centuries ago; but within the last twenty or thirty years, the principle has come into still higher repute, and more general use. Often has it been employed by the leading cabinets of Europe for the adjustment of their differences; and we ourselves have in several instances resorted to it with a degree of success calculated to encourage its general adoption. A question relative to the interpretation of our last treaty of peace with Great Britain, was referred to the Emperor of Russia, and decided to mutual satisfaction in our favor. The dispute concerning our north-eastern boundary we submitted to the King of the Netherlands; and, though his award, being a compromise not

*Vattel, Book 1, Ch. 4. Book 2, Ch. 18.

authorized by the terms of reference, failed to satisfy either England or ourselves, yet it doubtless served to prevent a resort to arms, and to secure in the end a settlement very nearly resembling that award, and satisfactory to both parties. Our difficulties with Mexico had brought us to the brink of war; but the danger was instantly averted by a reference of the points in dispute to the King of Prussia. Thus is the practice of enlightened and powerful nations strongly tending to establish this principle as a most important part of international law. Already is it a favorite antidote or remedy for war, a substitute proved by actual experience to be far better than the sword; and all we now ask, is the incorporation of this principle in every treaty between nations as the last resort for the adjustment of their difficulties.

The voice of public opinion, that mistress of the civilized world, is also coming to demand this substitute for war. The people, whose treasures and blood rulers have so recklessly wasted in their own quarrels, are already in favor of this plan, and may be expected ere-long to become clamorous for its general adoption in place of the cannon and the sword. They begin to learn that rulers *can* settle their disputes without the butchery of their subjects, and will one day insist that they *shall*. That day is coming on apace; and, when it does come, no congress, no cabinet, no despot in Christendom will be able to withstand the united, inflexible demand of the whole people for the adjustment of national difficulties without the shedding of their blood.

We speak not at random; for the popular will has already expressed itself on this point in ways not to be misunderstood. There is not in Christendom any intelligent community, scarce a solitary press, or respectable writer, that would not favor the adoption of our principle as a substitute for war. The question has been fairly submitted to some of them. A friend of peace in Massachusetts, a few years ago, brought it before a large number of persons in several States, and readily obtained from men of every rank, profession and employment, from farmers and mechanics, from merchants, lawyers and physicians, from judges, governors, and Christian ministers of every name, some thousands of signatures in favor of having all national disputes settled by amicable reference. The principle commends itself at once to every man; and, if fully understood, not one in a thousand of the people but would instantly prefer it to the blind and brutal arbitrament of the sword.

To this voice of the people some of our legislators have already given a partial response. The late accomplished Legare, in his report from the Committee on Foreign Relations, says "they heartily concur in recommending a reference to a third power of all such controversies as can safely be confided to any tribunal unknown to the constitution of our own country. Such a practice will be followed by other powers, and will soon grow up into the customary law of civilized nations." The legislature of Massachusetts had previously gone still further, and passed resolves, with perfect unanimity in the House, and with only one dissenting vote in the Senate, recommending not only the practice of arbitration as an occasional substitute for war, but a Congress and Court of Nations as a permanent system to carry the principle into effect.

Long ago did the fathers of our Republic cherish similar desires for *some* preventive of war. Jefferson says, "nations, like individuals, stand towards each other only in the relations of natural right; and might they not like them, be *peaceably* punished for violence and wrong?—Wonderful has been the progress of human improvement in other respects; let us hope that the law of nature will in time influence the proceedings of nations as well as of individuals, and that we shall at length be sensible, that *war is an instrument entirely inefficient towards redressing wrong, and multiplies*

instead of indemnifying losses." Franklin, who used so often to repeat his favorite maxim, "*there never was a good war, or a bad peace,*" said, "we daily make great improvements in natural philosophy; there is one I wish to see in moral—the discovery of a plan that would induce and oblige nations to settle their disputes without first cutting one another's throats. When will human reason be sufficiently improved to see the advantage of this? When will men be convinced, that even successful wars become at length misfortunes to the victorious themselves?"

The time for which Franklin and Jefferson thus longed, is well nigh come. Already are the people in this country, if not in others, sufficiently prepared for such a measure as we propose; and should rulers adopt it as a permanent substitute for war, we doubt not they would find themselves at once sustained and applauded by the popular voice. The general sentiment of Christendom would soon ratify the act as a glorious era in the history of the world; and countless millions yet unborn would bless the wisdom, patriotism and philanthropy which had thus staid the stream of blood, and left nations at liberty to start anew upon a career of unexampled prosperity and happiness.

In favor of our scheme, we might marshal a host of arguments and motives. Should it utterly fail, there is no possibility of its doing any harm; but should it succeed according to our hopes, how many evils would it prevent, how many blessings confer! What myriads of treasure, what oceans of blood, what numberless forms of crime and woe, would it save! How many wives would it rescue from widowhood, how many children from orphanage, how many families from ruin, how many provinces from plunder and devastation, how many cities from fire and sword, how many countries from all the nameless calamities of war! It would give the world a jubilee hitherto unknown. Free from the danger of war, its teeming myriads could gird themselves, with new zeal and hope, to every enterprise for their own or the general good. Millions of warriors, no longer drones fed from the public crib, might return to the arts of peace, and contribute their share to the common weal. Population would swarm anew; agriculture would spread its golden harvests over hill and vale; the various mechanic arts would ply afresh their thousand forms of improved machinery; commerce without fear would unfurl its canvass on every sea, and barter its commodities in every port; learning, and philanthropy, and religion would pass without obstruction from land to land, and ere-long cover the globe with their blessings. Every interest of man calls aloud for such a policy. The prosperity of our own country, the welfare of Christendom, the happiness of the world; patriotism, humanity, and religion; the great and glorious movements of the age; all, all demand it.

And what excuse can we plead for refusing a demand so reasonable? Is it impossible to bring nations into the measure? We have seen that the people are even now ready for it; and why should rulers object or hesitate? What interest or claim of theirs would it sacrifice or endanger? Would it cripple their power, or interfere with any of their rightful prerogatives? No; it would rather confirm them all, and ere-long endear itself both to rulers and subjects, as a most effectual safeguard of their respective rights and interests.

But is arbitration inconsistent with the dignity of governments? If so, why and how? We deem it honorable for individuals to refer their disputes to competent, impartial umpires; and why should it be dishonorable for nations to do the same? When a dispute arises between two of our towns or counties, they appeal to the courts of the State, and when between two States, to the supreme court of the United States, as their last resort, without a suspicion in either case of its being disreputable for them thus to

settle their difficulties; and, as some of our States contain more inhabitants than many a nation both in ancient and modern times, we see not what should make it inconsistent with the dignity of the latter to adjust their differences in the same way.

'But governments may be reluctant to *pledge* themselves *in advance* to this or any other mode of settling their disputes.' The plea, however, is more plausible than sound; for it would, if carried out, forbid all agreement between nations. Every treaty binds them in advance; and, if we discard such pledges, we must abjure all treaties; but, if nations may consistently pledge themselves on one point, they may on another, and agree beforehand to the settlement of their disputes by reference, just as well as they now agree to a reciprocity of trade, or a mutual surrender of fugitives from justice. The principle is the same; nor is there any more dishonor or inconsistency in one case than in the other. Nay, a pledge in advance is the very thing we need, to prevent a rush to arms under the blind and reckless impulses of passion or prejudice. It is a dictate of common sense; and often do we find shrewd, sensible men forestalling the evils of litigation by mutual promise to adjust their affairs in the last resort by arbitration. It might not be safe to wait for the hour of trial; for nations it is even less so than for individuals; and hence we deem it especially desirable for them, while both parties are calm and candid, to agree beforehand upon the mode of settling whatever difficulties may arise between them.

But it may be said, 'we can take care of ourselves, and decide our own controversies.' Be it so; but how will you do it? Is *your* will to be law? Is no voice but your own to be heard in the case? A dispute implies at least two parties; and can one decide it without consulting the other? Would you concede to your antagonist such a claim? If not, you must both unite in settling the dispute; and, if you cannot agree between yourselves, no method remains but some form of reference.—Tell us not, you rely on your sword. Your antagonist may say the same; but will both, or either, be satisfied with the decision of such an arbiter? Can there be, in the murderous enginery of war, any logic likely to satisfy each party?—*Nor does the sword ever settle such disputes;* for well has Vattel said, "it is an error, no less pernicious than absurd, to suppose that war is to *decide* controversies between nations." The sword decides nothing; it leaves the points in dispute just where it found them, and merely makes the parties willing, after enduring its countless evils for years, to settle the whole controversy by negotiation, reference, or some other pacific expedient.

Perhaps you plead the uncertainties of arbitration. But are these to be compared with the evils inseparable from war? Is the latter more certain in its results than the former? Should you draw the sword, can you after all be sure of gaining your point? Well does an able writer say: "We can scarcely anticipate any future national difference which it would not be more safe and prudent to submit to arbitration, than to the chance of war. However just may be our cause, however united our people, we cannot foresee the issue of the conflict, nor tell what new enemies we may be called to encounter, what sacrifices to bear, what concessions to make."

But do you doubt whether such pledges of mutual reference would be kept by nations? "It is readily admitted," says a worthy son of the immortal Jay, "that if the only guarantee for their faithful performance consisted in the virtue and integrity of statesmen and politicians, the confidence to be reposed in them would be but faint. Happily, however, we have a far stronger guarantee in national interest, and in public opinion. Every government that felt disposed to violate such a treaty, would be conscious that, by doing so, it would be sacrificing substantial interests for precarious advantages, exchanging the blessings of continued peace for the hazards and calamities of war. It would, indeed, require some very

powerful temptation to induce a people to forego the peace, security, and exemptions from military burdens, conferred by such a treaty. Public opinion, moreover, would unite with self-interest in preserving these treaties inviolate. A government who for the purpose of avoiding war, had pledged its faith to abide by the award of umpires, would, by going to war in defiance of that award, and in palpable violation of its solemn engagements, shock the moral sense of mankind, and would probably disgust even its own subjects. At the present day all governments are more or less controlled by public opinion; and the progress of education, and the power of the press, enable every individual to sit in judgment on the conduct of his rulers. Such a war would be odious, because it would be felt by all to be unjust and dishonorable. It would also be reprobated by the umpires whose decision would thus be contemned, and by every nation which had entered into a similar treaty. It ought, also, to be remembered, that each new treaty would tend to secure the observance of all the preceding ones, as each nation would feel that the value of its own treaty would greatly depend on the faithful performance of all the others; since, if one were violated with impunity, the power of the others to preserve peace would necessarily be weakened. In short, such a war would most probably be prevented, or speedily terminated by the interference of other powers interested in enforcing treaties for the preservation of peace.

"But surely it would be the height of folly to refuse entering into an advantageous treaty, because it might possibly be violated. What profitable commercial treaty was ever rejected on this ground? Even admitting the case supposed, our local situation, our population and resources, relieve us from all danger of a sudden and hostile attack. No future enemy of the United States will ever indulge the idea of conquest; and the only serious consequences we could apprehend from unexpected hostilities, would be the interruption of our commerce, while the nation, strengthened in all its resources by her past exemption from war, could immediately place itself in the attitude of defence.

"Dismissing, then, all idle fears that these treaties honestly contracted, and obviously conducive to the highest interests of the parties, would not be observed, let us contemplate the rich and splendid blessings they would confer on our country. Protected from hostile violence by a moral defence more powerful than all the armies and navies of Europe, we might, indeed, beat our swords into ploughshares, and our spears into pruning-hooks. The millions now expended in our military establishments, could be applied to objects directly ministering to human convenience and happiness. Our whole militia system, with its long train of vices, and its vexatious interruptions of labor, would be swept away. The arts of peace would alone be cultivated, and would yield comforts and enjoyments in a profusion and perfection of which mankind have witnessed no parallel. In the expressive language of Scripture, our citizens would each 'sit under his own vine and under his own fig-tree, with none to make him afraid,' and our peaceful and happy republic would be an example to all lands.

"It is impossible that a scene so bright and lovely, should not attract the admiration of the world. The extension of education in Europe, and the growing freedom of her institutions, are leading her population to think, and to express their thoughts. The governments of the eastern continent, whatever their form, are daily becoming more and more sensitive to popular opinion. The people, already restive under their burdens, would soon discover that those burdens would be reduced, if not wholly removed, by the adoption of such an American policy, and they would inquire why they were denied the blessings of peace. Before long, some minor states would commence the experiment, and the example be

followed by others. In time, these treaties would be merged in more extensive alliances, and a greater number of umpires would be selected; *nor is it the vain hope of idle credulity, that at last a union might be formed of every Christian nation for guaranteeing the peace of Christendom, by establishing a tribunal for the adjustment of national differences, and by preventing all forcible resistance to its decrees. That such a court, formed by a congress of nations in obedience to the general wish, would, next to Christianity, be the richest gift ever bestowed by heaven upon a suffering world, will scarcely be questioned by any who have impartially and candidly investigated the subject.*"*

Bishop Watson.—"When the spirit of Christianity shall exert its proper influence over the minds of individuals, and especially over the minds of public men in their public capacities, war will cease throughout the Christian world."

Prince Eugene.—"The thirst of renown sometimes insinuates itself into our councils, under the garb of *national honor.* It dwells in imaginary insults; it suggests harsh and abusive language; and people go on from one thing to another, till they put an end to the lives of half a million of men. A military man becomes so sick of bloody scenes in war, that in peace he is averse to re-commence them. I wish that the first minister who is called to decide on peace and war, had only seen actual service. What pains would he not take to seek, in mediation and compromise, the means of avoiding the effusion of so much blood."

Louis Buonaparte.—"I have been as enthusiastic and joyful as any one else after victory; yet I confess that even then the sight of a field of battle not only struck me with horror, but even turned me sick. And now that I am advanced in life, I cannot understand any more than I could at fifteen years of age, how beings who call themselves reasonable, and who have so much foresight, can employ this short existence, not in loving and aiding each other, and passing through it as quietly as possible, but in striving, on the contrary, to destroy each other, as though time did not itself do this with sufficient rapidity. What I thought at fifteen years of age, I still think, that war and the pain of death which society draws upon itself, are but organized barbarisms, an inheritance of the savage state."

Lord Brougham.—"My principles—I know not whether they agree with yours; they may be derided, they may be unfashionable; but I hope they are spreading far and wide—my principles are contained in the words which that great man, Lord Faulkland, used to express in secret, and which I now express in public—*Peace*, Peace, PEACE. I abominate war as unchristian. I hold it the greatest of human crimes. I deem it to include all others—violence, blood, rapine, fraud, every thing which can deform the character, alter the nature, and debase the name of man."

Seneca.—"Some deeds, which are considered as villanous, while capable of being prevented, become honorable and glorious, when they rise above the control of law. The very things, which, if men had done them in their private capacity, they would expiate with their lives, we extol when they perpetrate them in their regimentals. We punish murders and massacres committed among private persons; but what do we with wars, the glorious crime of murdering whole nations? Here avarice and cruelty know no bounds. Barbarities are authorized by decrees of senate, and votes of the people; and enormities, forbidden in private persons, are here enjoined by legislatures."

* Hon. William Jay's admirable book on Peace and War.

G. S.

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